IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 32076 of 2007(R)

PETITIONER:

JEWEL SEBASTIAN, AGED 33 YEARS,
S/O. LATE SEBASTIAN, VAZHAKKATTU HOUSE,
ATHIRAMPUZHA P.O., KOTTAYAM.

BY ADV. SRI.BABU PAUL

RESPONDENTS:
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1. THE GEOLOGIST,
MINING AND GEOLOGIST DISTRICT OFFICE,
COLLECTORATE P.O., KOTTAYAM.

2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY, DEPARTMENT OF
HOME AFFAIRS, THIRUVANANTHAPURAM.

3. THE SUB INSPECTOR OF POLICE,
VELLOOR POLICE STATION, VELLOOR.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/11/2007, ALONG WITH WP(C) NO.32822 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NOs. 32076 & 32822 OF 2007
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Dated this the 6th day of November, 2007

J U D G M E N T

In these two cases, Ext.P1 permits have been issued to the petitioners incorporating condition No.17, based on a judgment of this court in WP(C) 1694/04. According to the respondents, the effect of the judgment is that the petitioners will not be entitled to use pump and motor for washing ordinary sand, which they are mining. It is objecting to the said clause, these writ petitions have been filed.

2. A Division Bench of this court in judgment in WP(C) No.29713/06 has already taken the view that irrespective of the facts of the case, there cannot be a clause as Ext.P17 in all cases. According to the Division Bench judgment, it is for the authorities to consider the facts of each case and take a decision as to whether such a clause prohibiting the use of pump and motor is required to be incorporated or not. In view of the similarity of the facts of these cases with the facts of the case decided by the Division Bench of this court, I am satisfied that the petitioners are also entitled to the reliefs similar to what has been granted by the Division Bench.

Therefore, I dispose of these writ petitions directing that, the Geologist, Mining, Kottayam shall consider as to whether a prohibition of use of pump and motor is required to be imposed in the case of the petitioners also.

ANTONY DOMINIC, JUDGE.

Rp